

Assembly Bill No. 1135

CHAPTER 271

An act to amend Section 3106 of, and to repeal and add Section 3019 of, the Elections Code, relating to elections.

[Approved by Governor September 9, 2013. Filed with
Secretary of State September 9, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1135, Mullin. Vote-by-mail ballots: signature verification.

Existing law sets forth procedures for processing vote by mail ballots and requires that a county elections official, upon receiving a vote by mail ballot, compare the signature on the vote by mail ballot's identification envelope with the signature on the voter's affidavit of registration or the signature on the voter's application for a vote by mail ballot, as specified.

This bill would revise and recast these provisions and would provide that a county elections official would also be permitted to compare the signature on the identification envelope with the signature appearing on a form issued by an elections official that contains the voter's signature, that is part of the voter's registration record, and that the elections official has determined meets specified criteria.

Existing law sets forth procedures for voting by military or overseas voters, as defined, and permits a military or overseas voter to return his or her ballot by facsimile transmission, accompanied by an oath of voter declaration that includes the voter's signature. Existing law requires that a county elections official, upon receiving the ballot of a military or overseas voter returned by facsimile transmission, compare the signature on the oath of voter declaration with the signature on the voter's affidavit of registration.

This bill would provide that a county elections official would also be permitted to compare the signature on the oath of voter declaration with the signature appearing on the form issued by the elections official that is described above.

The people of the State of California do enact as follows:

SECTION 1. Section 3019 of the Elections Code is repealed.

SEC. 2. Section 3019 is added to the Elections Code, to read:

3019. (a) Upon receipt of a vote by mail ballot, the elections official shall compare the signature on the identification envelope with either of the following to determine whether the signatures compare:

(1) The signature appearing on the voter's affidavit of registration or any previous affidavit of registration of the voter.

(2) The signature appearing on a form issued by an elections official that contains the voter's signature, that is part of the voter's registration record, and that the elections official has determined compares with the signature on the voter's affidavit of registration or any previous affidavit of registration of the voter. The elections official may make this determination by reviewing a series of signatures appearing on official forms in the voter's registration record that have been determined to compare, that demonstrates the progression of the voter's signature, and makes evident that the signature on the identification envelope is that of the voter.

(b) In comparing signatures pursuant to subdivision (a), the elections official may use the duplicate file of affidavits of registered voters or facsimiles of voters' signatures, provided that the method of preparing and displaying the facsimiles complies with the law.

(c) (1) If upon conducting the comparison of signatures pursuant to subdivision (a) the elections official determines that the signatures compare, he or she shall deposit the ballot, still in the identification envelope, in a ballot container in his or her office.

(2) If upon conducting the comparison of signatures pursuant to subdivision (a) the elections official determines that the signatures do not compare, the identification envelope shall not be opened and the ballot shall not be counted. The cause of the rejection shall be written on the face of the identification envelope.

(d) The variation of a signature caused by the substitution of initials for the first or middle name, or both, shall not be grounds for the elections official to determine that the signatures do not compare.

(e) A ballot shall not be removed from its identification envelope until the time for processing ballots. A ballot shall not be rejected for cause after the identification envelope has been opened.

SEC. 3. Section 3106 of the Elections Code is amended to read:

3106. (a) A military or overseas voter who is living outside of the territorial limits of the United States or the District of Columbia, or is called for military service within the United States on or after the final date to make application for a vote by mail ballot, may return his or her ballot by facsimile transmission. To be counted, the ballot returned by facsimile transmission shall be received by the voter's elections official no later than the closing of the polls on election day and shall be accompanied by an identification envelope containing all of the information required by Section 3011 and an oath of voter declaration in substantially the following form:

"OATH OF VOTER

I, _____, acknowledge that by returning my voted ballot by facsimile transmission I have waived my right to have my ballot kept secret. Nevertheless, I understand that, as with any vote by mail voter, my signature, whether on this oath of voter form or my identification envelope, will be permanently separated from my voted ballot to maintain its secrecy at the outset of the tabulation process and thereafter.

My residence address is _____.
(Street Address) (City) (ZIP Code)

My current mailing address is _____.
(Street Address) (City) (ZIP Code)

My email address is _____. My facsimile transmission number is _____.

I am a resident of _____ County, State of California, or am qualified as an elector pursuant to paragraph (2) of subdivision (b) of Section 321 of the Elections Code and I have not applied, nor intend to apply, for a vote by mail ballot from any other jurisdiction for the same election.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated this _____ day of _____, 20_____.

(Signature) _____
(voter) (power of attorney cannot be accepted)

YOUR BALLOT CANNOT BE COUNTED UNLESS YOU SIGN THE ABOVE OATH AND INCLUDE IT WITH YOUR BALLOT AND IDENTIFICATION ENVELOPE, ALL OF WHICH ARE RETURNED BY FACSIMILE TRANSMISSION.”

(b) Notwithstanding the voter’s waiver of the right to a secret ballot, each elections official shall adopt appropriate procedures to protect the secrecy of ballots returned by facsimile transmission.

(c) Upon receipt of a ballot returned by facsimile transmission, the elections official shall determine the voter’s eligibility to vote by comparing the signature on the return information with the signature on the voter’s affidavit of registration or any signature permitted for comparison under Section 3019. The ballot shall be duplicated and all materials preserved according to procedures set forth in this code.

(d) Notwithstanding subdivision (a), a military or overseas voter who is permitted to return his or her ballot by facsimile transmission is, nonetheless, encouraged to return his or her ballot by mail or in person if possible. A military or overseas voter should return a ballot by facsimile transmission only if doing so is necessary for the ballot to be received before the close of polls on election day.

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